

City of Las Vegas

AGENDA MEMO

CITY COUNCIL MEETING DATE: AUGUST 19, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: DIR-35127 – APPLICANT/OWNER: MONTECITO COMPANIES

**** CONDITIONS ****

STAFF RECOMMENDATION: APPROVAL

**** STAFF REPORT ****

PROJECT DESCRIPTION

This request is for approval of a 24-month development report as required by Nevada Revised Statutes Chapter 278.0205 and Subsection 5.1 of the Development Agreement entered into between Montecito Town Center, LLC for the Montecito Town Center and the city of Las Vegas on April 3, 2002.

Planning and Development Department staff has reviewed the submitted development report and has determined that the Owner is currently in substantial compliance with the requirements of the Development Agreement for the area known as Montecito Town Center.

BACKGROUND INFORMATION

| <i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i> | |
|---|--|
| 01/17/01 | The City Council approved an annexation (A-0003-99) of land generally located west of El Capitan Way and east of Hualapai Way between Grand Teton Drive and Rome Avenue, containing approximately 615 acres, including the subject site. The effective date of this annexation was January 26, 2001. |
| 04/03/02 | The City Council approved a Development Agreement (DA-0002-01) that allowed for up to 4,000,000 square feet of office, medical, retail and/or hotel; and up to 1,600 residential dwelling units. |
| 07/16/03 | The City Council approved a Major Modification (MOD-2315) to the Development Agreement to add 10.08 acres to the overall plan. |
| 04/07/04 | The City Council approved a Rezoning (ZON-3840) from U (Undeveloped) [TC (Town Center) General Plan Designation] to T-C (Town Center), a Site Development Plan Review (SDR-3764) for a 587,750 square-foot mixed-use commercial development, including the subject site, and a number of Special use Permits for Liquor Sales, Incidental Gaming and Drive-through Facilities on the subject site. |
| 04/07/04 | The City Council approved a Major Modification (MOD-3735) to the Development Agreement to add 10 acres to the overall plan. |
| 04/07/04 | The City Council approved a Major Modification (MOD-3763) to add 5 acres to the overall plan and to increase the commercial square footage to 4,311,688 square-feet and to increase the allowed residential dwelling units to 1,725. |

The information below reflects the extent of compliance by the owner/developer as of July, 2009:

| Table 1: RESIDENTIAL UNITS AND DENSITY | | | | |
|---|----------------------|------------------------------------|--------------------|---------------|
| CATEGORY | REFERENCE | PERFORMANCE REQUIREMENT | PROGRESS | STATUS |
| Number of residential units approved | DA 4.1(b) as amended | Maximum of 1,725 residential units | 688 units approved | In compliance |
| Number of residential units built | N/A—data from Owner | N/A | 662 units built | N/A |
| Overall density | N/A | N/A | 18 units per acre | N/A |

| Table 2: LAND USE REQUIREMENTS | | | | | | |
|--|--------------------------------------|----------------------|---|--|------------------|---------------|
| CATEGORY | DESCRIPTION | DATE APPROVED | OWNER ACTION | CITY ACTION | REFERENCE | STATUS |
| Rezoning | Undeveloped (U) to Town Center (T-C) | 04/07/04 CC | Submitted application for Rezoning of Project Area | Process in conformance with Title 19. Amend zoning map | DA (C) | Completed. |
| Building Height and Size of Structures | Per NRS 278.0201 | 04/03/02 CC | Submitted SDR application w/ no building higher than 500' | Approve development plans | DA 4.2 | In Compliance |

| Table 3: INFRASTRUCTURE REQUIREMENTS | | | | | |
|---|--|--|------------------|-------------------------------------|---------------|
| FACILITY | OWNER ACTION | CITY ACTION | REFERENCE | PROGRESS | STATUS |
| Sanitary Sewer | Provide sanitary sewer facilities | None | DA 8.1 | Built | Complete |
| Flood Control and Drainage | Submit master drainage plan and technical study prior to issuance of grading or building permits | Review master drainage plan and technical drainage study | DA 11.1 | Drainage study approved 08/19/02. | Complete |
| Interim Flood Control Facilities | Construct interim flood control facilities necessary within Project Site to the 100-year flood event | Review and approve plans | DA 11.1 | No interim flood control facilities | In compliance |

| Table 3: INFRASTRUCTURE REQUIREMENTS (cont) | | | | | |
|--|---|--------------------------------|------------------|--|---------------|
| FACILITY | OWNER ACTION | CITY ACTION | REFERENCE | PROGRESS | STATUS |
| Public Flood Control Facilities | Dedicate all facilities within ROW to city | Maintain facilities within ROW | DA 11.1 | On-site facilities within all subdivisions have been completed and dedicated | Complete |
| Potable Water Facilities | Provide facilities for conveyance of potable water to and within Project Site | None | DA 7.1 | All facilities complete, functional and accepted by LVVWD | Complete |

| Table 4: TRANSPORTATION IMPROVEMENT REQUIREMENTS | | | | | | |
|---|--|-------------------------|----------------------------|-----------------|--------------|---------------|
| CATEGORY | OWNER ACTION | CITY ACTION | AGREEMENT REFERENCE | PROGRESS | NOTES | STATUS |
| Off-site Traffic Impacts | Pay for traffic signal impact fees | Install Traffic signals | DA 10.2(b) | Completed | N/A | Complete |
| Town Center Loop Road | Pay for full half street improvements adjacent to property | Build the street | DA 10.3 | Completed | N/A | Complete |
| El Capitan Way Improvements | Pay their fair share of a Special Improvement District | Build the street | DA 10.4 | Completed | N/A | Complete |
| Deer Springs Roadway Alignment | Pay for full half street improvements adjacent to property | Build the street | DA 10.7 | Completed | N/A | Complete |

ANALYSIS

In accordance with NRS Chapter 278 and Section 5.1 of the Development Agreement, the Owner is required to submit a development report every 24 months documenting compliance with the terms of the agreement during the preceding 24 months. Pursuant to Section 5.2 the City and the Owner shall be permitted an opportunity to be heard orally and/or in writing before the City Council regarding their performance under this Agreement.

This report (labeled “Exhibit I –Montecito Town Center Development Agreement 2-yr Status Report”) is the first formal report on record to track compliance with the Montecito Town Center Development Agreement. As a result, this Development Agreement has been in default for over five years.

Of the 217.5 acres of the Montecito Town Center, 176.36 acres (81.5%) have been developed. This leaves a little more than 41 acres as undeveloped. The majority of this undeveloped land has been zoned for the Great Mall of Las Vegas or nearly 35 acres.

There were two bonds issued for the public improvements for this project. The first, Montecito Town Center North has been completed and the bond released. The second, Montecito Town Center South is still active, although the final inspection took place on July 1st. This bond should be released shortly.

| PROJECT | BOND STATUS (as of 07/09/09) |
|-----------------------------|---------------------------------|
| Montecito Town Center North | Released 05/09/08 |
| Montecito Town Center South | Most recent inspection 07/01/09 |

There were discrepancies in the number of residential units and commercial square-footage allowed in the report submitted. The developer was under the belief that 1,807 residential units and up to 4,519,425 square-footage of commercial space had been approved by City Council via the original Development Agreement and the three Major Modifications that followed. However, staff confirmed that only 1,725 residential units and up to 4,311,688 square-footage of commercial space has indeed been approved via those documents.

A total of six associations have been formed to maintain the perimeter landscaping and maintenance of public areas of the development. They are Montecito Town Center North, West Durango Village, Montecito Lifestyle Center, Montecito Town Center South, Brookside by Richmond American Homes, and Deer Springs/Durango by Richmond American Homes.

FINDINGS

Planning and Development Department staff has reviewed the submitted development report and has determined that the Owner is currently in substantial compliance with the requirements of the Development Agreement for the area known as Montecito Town Center. As confirmed by the Department of Public Works, the only items remaining to be completed that were agreed upon are the release of bonds for the Montecito Town Center South obligation. Per Section 8.1 of the Agreement, pursuant to NRS 278.0205, the Owner shall provide another report in the next 24 months documenting compliance with the terms of the Agreement.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED N/A

ASSEMBLY DISTRICT N/A

SENATE DISTRICT N/A

NOTICES MAILED N/A

APPROVALS N/A

PROTESTS N/A